

REMARKS

This responds to the Office Action dated June 4, 2007. No claims are amended, cancelled, or added. As a result, claims 7-8, 10-42, 50-55, 58-63, 71-73, 79-81, and 83-84 remain pending in this patent application.

Double Patenting Rejection

Claims 7-8, 10-42, 50-55, 58-63, 71-73, 79-81, and 83-84 were rejected under a non-statutory obviousness-type double patenting rejection, specifically over claims 1-38 of U.S. Patent No. 6,757,561. Applicant does not admit that claims are obvious in view of U.S. Patent No. 6,757,561. Moreover, Applicant respectfully notes that the present application was filed as a divisional application as a result of restriction during prosecution of the application for the '561 parent patent. The Restriction Requirement mailed on July 2, 2003 in the application for the '561 parent patent stated that the restriction was proper because the claims were "patentably distinct," rendering the current obviousness-type double patenting rejection improper. See MPEP § 804.04(h) citing 35 U.S.C. § 121.

Nonetheless, to expedite prosecution of this patent application, a Terminal Disclaimer in compliance with 37 CFR 1.321(b)(iv) is enclosed herewith to obviate this rejection. Accordingly, Applicant respectfully requests withdrawal of this rejection and allowance of all of the currently-pending claims.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present

claims, or that they constitute prior art. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,


LEO RUBIN ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6951

Date August 6, 2007

By


Suneel Arora
Reg. No. 42,267

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6 day of August 2007.

John D. Gripe-Walsh

Name

John D. Gripe-Walsh

Signature